



CITY OF PORT ORANGE

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April 19, 2012

Mr. Warren Pike
P.O. Box 238134
Port Orange, FL 32123

Dear Mr. Pike:

On Thursday, March 29, 2012, the Port Orange Civil Service Board conducted a hearing related to your appeal. The Civil Service Board heard testimony related to your dismissal. The Board, in an advisory ruling, determined that, in their opinion, the violations of City Policies and Procedures did not rise to the level of dismissal. On April 3, 2012, the Board issued its formal advisory recommendation.

In addition to the Civil Service Board's advisory recommendation, I have read and re-read over five hundred pages of transcripts and sworn statements. I have watched video interviews and listened to audio interviews. I have read and re-read the Civil Service Rules and Regulations as well as the City's Policies and Procedures. I reviewed disciplinary actions taken by the City when an employee took City-owned property. I have examined alternatives including a letter of reprimand, a suspension, a demotion and termination. I have considered each one. I have examined how each alternative would impact the City of Port Orange internally and externally.

In preparing this decision, I have taken into consideration your length of service, your job performance, your value as an employee, as well as the recommendation of the Civil Service Board. I have taken into consideration your mentoring of individuals, including one of my sons. I have taken into consideration that you have been called upon by other cities to provide them with advice on Public Works operations. I have examined the facts and my decision is based on facts, not emotions. I have had to separate my friendship with you and not allow our long time personal relationship to color or interfere with my duties and responsibilities as City Manager.

I have received numerous calls and emails related to my February 15 decision, some supporting termination while others opposing my decision. I know that my decision will impact my personal relationship with you and with other people, many of whom I have known for almost 28 years.

Normally, when an individual confesses to a violation of the Civil Services Rules and Regulations, the case is settled, is adjudicated based upon that confession and the facts gleaned from the investigation. The basic facts of this case are not in dispute by either party.

This decision is about equity. If this was another department head, would there be any discussion from the public about whether the department head should be reinstated? I went through a "what-if" scenario: What if another department head had given the access code to their secured areas and provided access to a master key to a trusted unauthorized individual and the trusted individual went into secured areas and stole items from locked storage areas? What action would the public expect from me? What if the same department head gave away property belonging to the City that was scheduled to be sold at auction or could have been disposed of by another means and the money from the sale of the property deposited into a City account? What action would citizens expect me to take? I came to the conclusion that if it were any other department head, the public would be demanding the employee be terminated immediately from his/her employment with the City of Port Orange.

In arriving at a decision, I considered another "what-if" scenario: What if I gave one of my sons the access code to City Hall and provided them access to the master key that opened every office in City Hall and all secured areas within the building and they stole items from the City, what would the citizens expect the City Council to do? What if I gave permission to one of my sons to take old computer monitors and other items that had been taken out of service and were scheduled to either be thrown away or disposed of by auction? What would the public expect the City Council to do? I came to the conclusion that the public would demand the City Council terminate my employment.

My February 8, 2012 letter to you outlined the charges. On February 13, 2012, you responded with your explanation. During the interview session, we discussed the points in your letter. I asked questions and you provided answers. On February 15, 2012, I issued a Notice of Termination letter. In that letter, I outlined the reasons for termination and provided you with the exhibits supporting termination.

In their April 3, 2012 advisory recommendation, the Civil Service Board failed to recognize the fiduciary responsibility of a department head. When an individual is appointed to a position of public trust, that individual, by acceptance of the position, agrees to abide by certain operational and ethical standards. The individual agrees that the public's interest will always take precedent over personal and family interest. Failure to abide by those standards is a breach of public trust. As I read your sworn statements and watched the videos, you admitted to breaching the public trust when you gave the access code and authorized your son to remove items from locked storage areas.

In your statement, you admitted to giving your son the code that gave him access to the master key. In your statement, you indicated that you gave him the code so that he could open the key box at the Public Works yard. You knew that the key that was in the

box was a master key. You knew that giving out that code to an unauthorized person was a breach of security at the Public Works complex. In your statement, you stated that the reason that you gave him the code was so that he could dump trash at the Public Works yard for his mother. Port Orange is different from other communities in that residents are not restricted to the amount of solid waste that they can place on the curb for collection. Further, the Volusia County landfill is open on the weekends. Finally, dumping at the Public Works after business hours by the public is not allowed. By giving him the code and authorizing him to enter the Public Works compound after normal business hours constitutes a breach of security and a breach of the public trust.

In your statement, you admit several things related to the tires. First, you admitted that you gave the tires to your son. Second, you admitted that the tires were in a locked storage room. Third, when I asked you directly how your son was to remove the tires from the locked storage room you replied that you did not know. We now know how he was going to retrieve the tires; he had the code and access to the master key. A department head has the responsibility to make sure that all facilities under their control and supervision are secure. A department head has the responsibility to protect access codes, keys and limit access to their facilities by non-employees, even if that person is a family member.

Many years ago, you came to me concerned about security both at City Hall and Public Works. You recommended we change to the Medeco system. You explained how the system worked. It allowed the City to restrict employee access according to their need to have access to specific areas. Although there are newer systems, the Medeco system is reliable and works well. I accepted your recommendation and the locks at both Public Works and City Hall were changed. You and I discussed limiting the number of master keys since master keys provide access to all areas. There are very few grand master keys. Even my City Hall master key does not work at Public Works or any other City-owned facility.

In your statement, you stated that your son told you that he had taken a new police light bar from the Public Works facility. You told him to go back to Public Works when nobody was present and return the bar. Pure and simple, you authorized a non-employee to break and enter the Public Works facility when nobody was present so as to be not detected. As a department head you have the responsibility to report any and all stolen property, even if it was taken by a family member. Failure to do so is a breach of the public trust.

After you instructed your son to take the stolen property back to the Public Works yard when nobody was present, you did not verify that the light bar was actually returned. At no time, prior to January 24, 2012, did you report your son's theft to the Port Orange Police Department. At no time, prior to January 24, 2012, did you report your son's theft to me. Failure to report is a breach of the public trust.

The initial report you provided to me on January 10, 2012, was that the new police light bar was misplaced, not recorded correctly or stolen. In fact, you knew as early as

Friday, January 6, 2012, and perhaps even much earlier, that the new light bar was missing. You waited until Monday, January 9, 2012, to report the light bars missing to the Port Orange Police Department and until January 10, 2012, to report it to me. As you will recall, as soon as I was notified, it was my instructions to notify the Port Orange Police Department and the City's Risk Manager. However, at no time on January 9 or 10, 2012, did you tell either the Port Orange Police or me that you had knowledge of a theft of a new light bar by your son. You did not reveal that you had knowledge of a theft of a new police light bar until the Police Department interviewed you on January 24, 2012, after the arrest of your son and another youth when the new light bar was recovered from your son's bedroom. When the initial report was filed, you mislead me. Further, you mislead the Police. In fact, you covered up the theft of the new light bar. As a father, I understand your desire to protect your son. However, in doing so, you breached your responsibility as the Public Works Director and the public's trust.

When you were confronted by the Port Orange Police Department, you were forthcoming with information. You told them your role and admitted giving him the access code to the key box, giving him tires, failure to recover City property, and covering up a theft of public property.

Further, between the time of the initial charge letter and the final letter, I have learned of additional violations of policy on your part. I've learned that you asked a City employee to teach your son to weld on City time using City equipment at the Public Works facility. This is exactly the same violation that was discussed with you in 2002. Other City employees reported seeing your son, while you were not present, using City welding equipment on his own in the Public Works shop area after normal operational hours. The employees stated that they did not report seeing your son in the shop area because they knew him and thought that he was authorized to be there. You were reprimanded for that before and told that future violations would result in disciplinary action. I did not amend the charge letter to include this violation nor did the Civil Service Board take this into consideration when making their recommendation. Although a violation of City policy, I have not included this policy breach in my findings of fact, my conclusion, or my decision.

Although the Civil Service Board has recommended that you be reinstated to your former position, you have violated your fiduciary responsibility as a department head. By providing the access code to a non-City employee that then allowed them to have access to a master key so that they could gain access to the Public Works property and all of the buildings, facilities, and storage areas in the Public Works compound, you exposed the City to loss of property, liability, and loss of public trust. Failure to report stolen property to the City Manager and Police when you first learned that property had been stolen is a violation of your responsibility as a department head. By instructing your son to re-enter the Public Works facility after normal business hours in order to avoid detection, you authorized breaking and entering of a public building facility in an attempt to cover up a theft of public property. That is a direct violation of your responsibility as a department head. Failure to recover City property you knew was

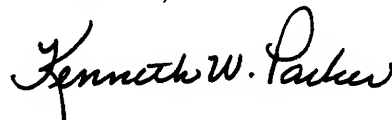
stolen by a family member is a violation of your responsibility as a department head. All these actions constitute a breach of the public trust.

Based upon the indisputable facts and your sworn statements that were presented to both Civil Service Board and me, the facts and statements are hereby affirmed. Based upon your breach of your responsibilities as a department head, I find you in violation of the Civil Service Rules and Regulations as outlined in my letters of February 8, 2012 and February 15, 2012. The findings in the February 15, 2012 letter are hereby affirmed. I have found that you have breached my trust, the public trust and your fiduciary responsibility as a department head. I cannot place a person in the position of department head unless I can trust them to perform the duties. The Civil Service Board's advisory opinion related to their findings of violation of City Rules and Regulations and Policies and Procedures are accepted. Their recommendation to reinstate you as the Public Works Director is not accepted.

Warren: As Ken Parker, you are a friend and always welcome in my home. If you needed something that I personally owned, I would give it to you without question. However, as Kenneth W. Parker, Port Orange City Manager, your request to be reinstated as Public Works Director is something I can not support or grant.

Based upon the findings of fact as presented to me by the Port Orange Police Department and the facts presented before the Civil Service Board, I have affirmed your termination. This is the final step. There are no further administrative avenues of appeal.

I Remain,

A handwritten signature in black ink that reads "Kenneth W. Parker". The signature is written in a cursive, flowing style.

Kenneth W. Parker
City Manager

KWP: ckr

cc: Michael Politis, Esquire
Wayne Helsby, Esquire
Margaret Roberts, City Attorney
Civil Service Chairman Wayne Wilcox
Civil Service Board Member Larry Kelly
Civil Service Board Member Anna Ianchello
Mayor Allen Green
Vice Mayor Robert Pohlmann
City Council Member Bob Ford
City Council Member Donald Burnette
City Council Member Dennis Kennedy
Robert Zicker, Human Resource Director